

TO Mick Miller

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From

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May 10, 2006

Nick Miller
 Water Distribution Section
 Idaho Dept. of Water Resources

Dear Mr. Miller,

The following are recommendations for accounting procedures of water used in Water District 34 and election accounting methods for the District:

1: The water master receives all canal heading readings directly from all ditch riders- deputy water masters- each day not second hand through the Big Lost River Irrigation District.

2: re: The 30 day rule on registration for elections: a date 30 days before an election may be set up to complete registration for voting. But can a person be stopped legally from voting — if he has proof to legally vote on the day of the election? We do not think so! Why would it be different from a county election?

3a: A corporation which holds a valid water right may have a manager or designated officer vote on its behalf after legally registering that person for that purpose. Likewise, a partnership can legally register which partner will vote on its behalf for which particular water right it holds.

3b: In section 42-605 of the Idaho Code, voting is based on the person "owning or having the use for the ensuing season of any water right." "Thus the person owning the right can vote or the person using the right for the season can vote. Therefore, a person who proves he is using a water right for the season has the right to vote that water right. Ranch managers have been allowed to vote water rights in past District 34 elections based on their managed use of the water right. Why is it necessary to change this now if they register as the use manager?

4: The rule for voting (42-605) states in using the dollar assessment procedure for voting, the water right user "shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such user number of years the right has been assessed." Since all the rights in the District have been previously assessed, the 5 year average must stay in place.

If some rights assessments are going to be changed as to where they are assessed (i.e.- at the river canal heading not at lateral headings), they still must be entitled to a number of votes equal to the assessment for the previous five years. It is not legal to change all the assessments to one year's usage because some points of assessment have changed, nor to assess one year on the changed assessment points. The assessments have to maintain the 5 year average by law.

5: The water master oversees the water rights used in the reservoir and the evaporation losses of the reservoir and then supply such figures to the B.L.R.I.D. According to Rule 40.03(b) : "Evaporation losses from Mackay Reservoir shall be estimated daily by the water master by applying correlated evapotranspiration data from the Aberdeen hydromet station to the Mackay Reservoir and shall be assessed to all impounded water."

6: The Voting Credentials Committee, or its individual members, does not have the authority to access ballots after a completed election tally. If there is a question about election tabulation, ballots must be examined by the entire District 34 Advisory Board at one meeting (a court order requirement would not be an unusual recommendation.)

Thank you for considering these requests. We emphasize that any change must follow the laws and rules.

Sincerely,

Mike J. DeGenaro
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 Jenna Marie Smith